

DRAFT
MEETING SUMMARY
Technical Oversight Committee (TOC)
Analysis of Refuge Phosphorus Data and Related Matters
South Florida Water Management District, B-1 Auditorium
3301 Gun Club Road, West Palm Beach, FL 33406
Tuesday, March 2, 2004

Attendees:

Garth Redfield, TOC Chair and Agency Rep., SFWMD
Nick Aumen, TOC Agency Rep., NPS/ENP
Paul Du Bowe, TOC Agency Rep., USACE
Frank Nearhoof, TOC Agency Rep. FDEP
Mike Waldon, TOC Agency Rep., USFWS

John Barkett, Special Master

Bill Baxter (COE) via Telephone
Kelly Brooks (Miccosukee Tribe)
Linda Davis (SFWMD)
Charles Demonaco (FDEP)
Naomi Duerr (SFWMD)
Gene Duncan (Miccosukee Tribe)
Julianne Duwel (SFWMD)
Rebecca Elliott (FDACS)
Gary Goforth (SFWMD)
Thomas Gould (Steel Hector)
Matt Harwell (FWS)
Don Jodrey (DOI)
Bob Kadlec (DOI)
Don Kent (CWF)
Charles Lee (Audubon)
Jason Lichtstein (Gunster Yoakley)
Paul McGinnes (SFWMD)
Jack Maloy (SFWMD)

Philip Mancusi-Ungaro, USEPA/DOI
Chip Merriam (SFWMD)
John Mitnik (SFWMD)
Cheol Mo (SFWMD)
Paul Moczynski (COE)
Brooks Moore (COE) – Via Telephone
Paula Moree (SFWMD)
Zaki Moustafa (SFWMD)
Tracey Piccone (SFWMD)
Barbara Ross (SFWMD)
Pam Sievers (SFWMD)
Lisa Smith (SFWMD)
Sharon Trost (SFWMD)
Stuart Van Horn (SFWMD)
Jeff Ward (SCGC)
Bill Walker (DOI)
Shi Xue (SFWMD)
Mike Zimmerman (NPS/ENP)

Introductory Comments: 10:10 a.m.

Garth Redfield, Chair, Technical Oversight Committee (TOC), called the meeting to order at 10:10 a.m. He noted that this is a special TOC meeting arranged to continue developing action strategies and priorities on recommendations to the Principals that were attached to the July 24, 2003 letter.

All parties introduced themselves and gave their affiliation.

1. Approval of TOC minutes from August 12, 2003, October 30, 2003, January 8, 2004 and February 3, 2004 TOC meetings: 10:15 a.m.

The Chair said all four sets of Minutes will be posted on the web on March 3, 2004 and agency reps and interested parties to submit specific changes. He noted also that the

Minutes are topics and conclusions, not verbatim records of the meeting. At the next monthly meeting the revisions will be discussed and these four Minutes will be approved.

There were comments on the degree of detail in the current Minutes. Verbatim Minutes are not requested, but more detailed Minutes were requested by ENP. Discussion concerned the significant staff time required to produce such detailed Minutes and the difficulty of deciding what details to include. There was discussion on using a contractor to take the Minutes as used by the U. S. Army Corps of Engineers for the Minutes of offsite CERP meetings, where details are captured and are in a narrative format.

Recommendation and Follow Up, 10:22 a.m:

It was suggested that agencies jointly share the cost of hiring a contractor to manage arrangements and take detailed Minutes of future meetings. The CERP contractor used by the U. S. Army Corps of Engineers will be contacted by the Chair to investigate the cost and specifics of using the contractor's services for TOC meetings. It was noted that cost-sharing between agencies is not easy to arrange.

2. "Florida in the Sunshine" Statute and the TOC Process: Guidelines for Compliance", 10:25 a.m.

Presentation. Frank Bartolone, Senior Attorney, SFWMD, briefed TOC on how the TOC process is affected by the Sunshine Law in Florida (**Attachment 1**).

The law (Section 286.011, Florida Statutes) governs meetings and activities of public bodies and committees that make decisions. The same laws govern all public agencies, i.e., City Councils, Governing Boards, Civil Service Committees, etc. Any State agency that holds a meeting must have an Agenda that is published in the Florida Administrative Weekly (FAW) seven days prior to the meeting.

If more than one TOC member meet as a group and recommendations are made to TOC, that meeting would be considered a meeting under the Sunshine Law and must adhere to all the requirements of such. Fact-finding groups are exempt from Sunshine law. Several scenarios were asked of Mr. Bartolone to determine which meetings must be held in accordance with the Sunshine Law. Technical analysis can be considered "fact finding" as long as no recommendations are made and no options are eliminated. Committees can be assigned tasks by TOC to explore different alternatives, but cannot make recommendations to the TOC unless they are conducted in the Sunshine. One TOC member may be at one of these meetings, but not more than one. Frank emphasized that the use of middlemen or liaisons is not allowed under Sunshine.

Recommendation and Follow-up, 10:50 a.m:

Frank Bartolone will follow-up on the procedure used by DEP for the posting of meetings, and clarify whether the District can either use DEP's process or get permission to do Web posting on its own.

Conclusion: The TOC will continue to notice all meetings and publish an agenda in the Florida Administrative Weekly (FAW). DEP only has the ability to post their meetings on their website and perhaps all future TOC meetings could be noticed through DEP. Web posting would avoid the burdensome deadlines in the FAW. Technical meetings requested by TOC between primary meetings must be noticed also. Currently, monthly meetings have been arranged and will be noticed in FAW with a specific agenda. It was also suggested that generalized agendas could be posted and then items deleted as appropriate. This approach would satisfy Sunshine requirements but would not meet the public's need to know what topics would actually be discussed.

Public Comment:

Charles Lee (Audubon) spoke on managing the TOC meetings. He sees value in posting an agenda and noticing meetings, and he thinks this is good for the public. Quality of agendas is not as important as the quality of the meetings in moving things forward.

3. Update on STA 3 / 4, 11:00 a.m:

Presentation:

A refresher of the presentation provided at the last TOC meeting was given by Dr. Goforth (SFWMD) (**Attachment 2**). He reviewed the status of STA 3/4 completion and enhancement, and the phasing of enhancements over the next two years. The STA 3/4 PSTA project was reviewed and questions were asked by several reps and interested parties. The role of lake releases and STA overloading was discussed in relation to the PSTA project. It was emphasized that plans should be put in place to minimize overloading to STA 3/4 flow ways while minimizing by-pass of untreated water. STA enhancements are being timed for construction during the dry season to minimize potential overloading problems. Overloading is a factor that will be considered in water management decisions on lake releases.

Public Comment:

Charles Lee (Audubon) spoke on the importance of the Talisman Reservoir in terms of long term planning and the operation of STAs. There was discussion on getting the Talisman Reservoir on line as soon as possible to improve overloading situation.

Return to Presentation, 11:12 a.m:

Information was provided on the current status of STA-1W regarding phosphorus loading (**Attachment 3**). There was discussion on the relative importance of STA-1E to improving the performance of STA-1W and its role in increasing overall nutrient loading to the Refuge. More data needs to be analyzed on distribution and amount of loading relative to the basic design parameter of the STA's at one gram per square meter per year. There is a real need to stay within the design envelope for the STAs and the Long-Term Plan activities should focus on this topic.

Recommendation/Follow-up:

Options need to be looked at on the matter of total phosphorus loading relative to the original estimates used in designing the STA system. Getting more information on total loading and treatment capacity should be a high priority for the Long-Term Plan activities.

4. Continuing Discussion and Prioritization of Category A Recommendations to Principals on "Controlling Phosphorus Loads to the Refuge" Through Summary Matrix Presented at 2/3/04 TOC, 11:20 a.m.

Three handouts were available with information relevant to this general discussion:

Attachment 4: *The DEP and District Recommended Priorities – Recommendations to Principals of the Consent Decree (July 24, 2003).* This is a new handout for this meeting.

Attachment 5: *Draft 1/28/04 – State Recommendations to the TOC for Consideration at the February 3, 2004 Meeting.* This handout is the same as that handed out at the last TOC meeting. **Attachment 6:** *Letter to Principals of the Consent Decree from Garth Redfield, TOC Chair Re: Progress on TOC prioritization of recommendations concerning the Refuge.*

Discussion: Quantification of the total load and a consideration of its treatment needs to be studied and reported back to TOC (as discussed above). There are niches in the Long-Term Plan to deal with this from different perspectives, but more specific timelines and products are needed. There was discussion of these projects in relation to the commitments made in the Settlement Agreement. The District supports numerous activities concerning the STAs, and an acceleration of some can be considered. There are meetings being held at the District by the STA Design Group, and another set of participants is meeting once a month to look at critical issues in the Long-Term Plan. There was a suggestion made that quarterly meetings could be scheduled to discuss the revisions and/or progress in the Long-Term Plan. These meetings are now being scheduled once per year.

There was discussion centering on recommendations A1 and A2 and their importance to the TOC. This area is covered under the Long-Term Plan projects titled 'Improved Reliability in Inflow Forecasts', particularly Bc86(1). Areas of concern include needing more specific information and timeframes. Discussion on Item A.1.b. addressed the issue of operation of STA-1E as a treatment system and as a source of new loading to the Refuge. The USFWS rep indicated that controlling phosphorus in STA-1E is unlikely to reduce the number of exceedances and other remedies may need to be looked at. There was a suggestion by the NPS rep that there needs to be more attention to source controls, accelerating Long-Term Plan projects and revising the loading compliance methodology using updated flow estimates.

Recommendations & Follow-Up, 11:45 a.m:

There was general agreement by the TOC that a major priority is to begin operating the STAs in their design range as soon as possible. A working timetable will be made by staff working at the District on the Long-Term Plan and presented to the TOC members. A set of needs and estimated timeframes will be developed by Dr. Goforth in cooperation with representatives of other agencies (ENP/NPS). These will be discussed at next month's meeting.

Nick Aumen, NPS rep, noted that TOC needs to look ahead and form a sub-committee to discuss some feasibilities and options for improving source controls. Source controls need greater attention, LTP projects need acceleration and the loading compliance methodology will need to be updated when updated data are available.

A meeting on the Long-Term Plan is scheduled for Wednesday, March 3, 2004 and "data" issues will be reviewed.

Public Comment:

Charles Lee, Audubon Society, expressed his comments on the performance of the STAs in relation to phosphorus reductions from source controls. He provided a handout (**Attachment 7**) indicating that the causal link between BMPs and specific P reductions is weak and not well connected to the BMP point system. He noted that source controls are only budgeted at \$50,000 by the District and this is not a serious commitment. Dr. Goforth put up a slide illustrating that the S5 basin has much higher phosphorus levels than other EAA basins and any additional BMP effort might be best directed at this basin.

Recommendation & Follow-up, 12:10 a.m.:

A workshop on BMPs will be scheduled in association with the next TOC meeting after consultation with agricultural representatives and District staff dealing with the EAA regulatory program.

[Break for Lunch 12:15 p.m. – Reconvene at 1:10 p.m.]

Continuing Review of the State Recommendations "A", 1:10 p.m.

As a follow-up from the morning session, the topics discussed today at the TOC meeting will not be discussed at the Long-Term Plan meeting on March 3, 2004 due to the requirements of the Sunshine Law. The Long-Term Plan Technical Working Group does not have any TOC members and is not directed by TOC to conduct any studies or make any recommendations.

Public Comment: Representatives for the Miccosukee Tribe followed up on the discussion earlier of the Long-Term Plan meeting. They indicated that they did not feel included in the Long-Term Plan process and felt that work done under that process should not substitute for TOC-directed efforts. There was discussion that the Long-Term Plan is the vehicle by which phosphorus controls are being implemented and much of this effort is directly relevant to TOC.

The need for a BMP workshop was expressed by Nick Aumen and he urged that it happen quickly.

Recommendation & Follow-up:

A date to schedule a workshop on BMPs was suggested to be on April 6, 2004. Read-ahead material will be provided to the TOC committee. The agricultural community should be

added to the agenda. The District and DEP reps suggested that TOC needs specific proposals on BMPs and that much information is available on existing programs and findings.

A teleconference will be set-up by Linda Davis to ascertain a date to hold a BMP workshop. An agenda for the BMP meeting will be discussed through the teleconference. The teleconference will be scheduled at a mutually convenient time for as many parties as possible.

Technical TOC Meeting will be scheduled for two full days April 5, 2004 and April 6, 2004, to focus on the main topics of concern in the State and Federal recommendations.

Public Comment: Charles Lee, Audubon, questioned whether recommendations on BMPs could be completed in time to go into the April report to the Principals. Most of the discussion that followed, the Chair and others, indicated that developing any BMP recommendations is not simple and will take much longer than the month remaining before the progress report will be written to the Principals.

5. Discussion and prioritization of Category B Recommendations to the Principals on "Enhancing monitoring of the Refuge."

Presentation, 2:00 p.m:

Mike Waldon USFWS rep, presented an update on the modeling of the Refuge since the last TOC meeting (**Attachment 8**). Nick Aumen stated that some comments were received from other agencies, including DEP on the web board, and he expressed his appreciation. Comments from the District's Office of Modeling as a handout to TOC were acknowledged (**Attachment 9**). Water quality work should begin in April for monitoring and a new federal employee is being hired for modeling, and other work has already begun. A 2-day, science meeting at the Refuge in April will provide an update on the monitoring and modeling being pursued by the Refuge.

Recommendation & Follow-up:

Within a week, an official response from the Environmental Monitoring & Assessment Department at SFWMD (Naomi Duerr) on the modeling and monitoring will be sent to Drs. Waldon and Aumen.

6. Discussion and prioritization of Category C Recommendations to Principals on "Modeling of the Refuge."

Recommendation & Follow-up:

A recommendation for collaborative modeling was made by the Chair. The USFWS rep indicated that no decision on the modeling program has been made by NPS and USFWS. Communication between the agencies on modeling will be done.

Nick Aumen, ENP rep., disagreed with section on *the DEP and District Recommended Priorities – B: Enhancing Monitoring of the Refuge – Lowest Priority*. This is a high priority

for the Refuge. Also, on C. *Modeling of the Refuge – Medium Priority*, he indicated also that this is a high priority.

In response to a question from Mike Waldon, USFWS rep., District staff noted that the Regional Simulation Model does not currently transport mass, but is being refined to do so in association with other model add-on options being developed by the USGS. He also noted that nothing in the RSM is proprietary in nature.

TOC Recommendation C.2. – *Evaluate the issues associated with phosphorus loads and transports within the L-40 and L-7 canals.*

Discussion, 2:30 p.m:

Modeling and conveyance of water in the L-40 was discussed. Erosion and sediment in L-7 is of concern to the Refuge.

Recommendations & Follow-up:

Paul DuBoway, CORPs rep., indicated that he would follow-up with staff at the COE to find out what modeling has been done, what the results are and what more might be possible.

Dr. Kadlec, DOI, noted that more activity needs to be included in the recommendations on canal conveyance because none of the planned modeling addresses canal conveyance in a specific manner for modeling flow routing and timing.

Another workshop needs to be scheduled with staff at the Refuge and the Office of Modeling at SFWMD. A cooperative teleconference will be scheduled (in accordance with the Sunshine Law) by Dr. Aumen. He also indicated that more money could be found for work in this area if necessary. Currently, this area is not a high priority for the Refuge.

General Discussion:

Question by Frank Nearhoof (FDEP rep.): Are there suggestions by our Federal partners to make changes to the Long -Term Plan? Dr. Aumen stated that in general the concerns of NPS are: (1) that some elements in the Plan that are not happening fast enough; (2) some of the concerns of NPS & USFWS have not been addressed; (3) BMPs need more attention, and (4) spiking of water into the Refuge is a more recent concern. There were further comments by stakeholders on these concerns. Bill Walker, DOI, noted that this spiking issue is new and not directly addressed by the Long-Term Plan projects. Bob Kadlec, DOI, also noted that downstream effects, such as penetration, are not addressed expressly in the Plan. A timetable for addressing spiking is needed. Dr. Goforth provided information on these concerns and on three relevant projects in the Long-Term Plan.

Follow-up:

Bill Baxter will send an e-mail message to TOC members on his recommendations on the Long-term Plan activities.

Tom Kosier or other SFWMD staff will arrange a teleconference call to discuss the concerns expressed by the NPS and FWS regarding steps that can be taken to minimize penetration of

canal water from STAs. The Refuge will prepare clear and concise questions for Sharon Trost, SFWMD and/or Tom Kosier to answer and will send to the parties a written reply.

The Regulation schedule and penetration into the Refuge was discussed. The SFWMD will minimize the impact as much as possible.

A.4. Review of regional water management decisions affecting STA operations and performance.

Recommendations & Follow-Up:

Susan Sylvester, COE, previously volunteered to take on a project to revisit regional water management. Questions should be prepared by TOC members and forwarded to Ms. Sylvester. She will then give a presentation to answer the questions at the next TOC meeting. Paul J. DuBoway (COE) will carry this request back to the Ms. Sylvester.

7. Additional Public Comments – None.

8. Dates for Future TOC meetings, 3:20 p.m:

April 5 and 6 2004: Special meeting, 4/5 location TBD, 4/6 Storch Room from 10 a.m. – 3 p.m.

May 25, 2004: Quarterly meeting, Storch Room from 10 a.m. – 3 p.m.

9. Suggested Future Topics for TOC:

Work in preparation for April that needs to be done was discussed. Focus of the next meeting will be on fleshing out category “A” recommendations and working on a response to the Principals.

Suggestions:

- (1) Start the process of drafting the letter to the principles.
- (2) Timeframes and questions on projects referred to in the Matrix provided by Dr. Goforth titled *Summary of State’s Response to TOC Recommendations*.

Recommendations & Follow-up, 3:45 p.m:

Bill Walker will talk with Gary Goforth on issues of concern to Mr. Walker. Communication is occurring on these issues and they need to be identified and brought to the TOC members next month.

A set of questions or challenges need to be prepared and sent to the appropriate TOC member to be able to discuss at the next meeting.

Adjournment at 3:50 p.m.